

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

George A. Toliver,

Plaintiff

V.

Nevada Department of Corrections, et al.,

Defendant

2:16-cv-01807-JAD-NJK

Order Dismissing Case

Former state prisoner, George A. Toliver, filed a civil rights complaint under 42 U.S.C. § 1983 on August 4, 2017, I denied his application to proceed *in forma pauperis* for prisoners not because he was no longer incarcerated.¹ I ordered Toliver to file a fully complete application to proceed *in forma pauperis* for non-prisoners or pay the full filing fee of \$400.00 no later than September 5, 2017.² The deadline has now expired, and he has not filed an application to proceed *in forma pauperis* for non-prisoners, paid the full filing fee, or otherwise responded to my order.

District courts have the inherent power to control their dockets and ‘[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.³ A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.⁴

¹ ECF No. 21 at 2.

² *Id.*

³ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

⁴ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with

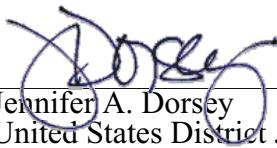
1 In determining whether to dismiss an action for lack of prosecution, failure to obey a
2 court order, or failure to comply with local rules, the court must consider several factors: (1) the
3 public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket;
4 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
5 their merits; and (5) the availability of less drastic alternatives.⁵

6 I find that the first two factors weigh in favor of dismissal. The third factor also weighs
7 in favor of dismissal because a presumption of injury arises from an unreasonable delay in filing
8 a pleading ordered by the court or prosecuting an action.⁶ The fourth factor is greatly outweighed
9 by the factors in favor of dismissal. Finally, a court's warning to a party that his failure to obey
10 the court's order will result in dismissal satisfies the "consideration of alternatives" requirement.⁷
11 In my order requiring Toliver to file an application to proceed *in forma pauperis* for non-
12 prisoners, I expressly warned him, "IT IS FURTHER ORDERED that if Plaintiff does not timely
13 comply with this order, dismissal of this action may result."⁸

14 It is therefore ordered that this action is dismissed with prejudice based on Toliver's
15 failure to file an application to proceed *in forma pauperis* for non-prisoners or pay the full filing
16 fee in compliance with my August 4, 2017, order.

17 **The Clerk of Court is directed to enter judgment accordingly and CLOSE THIS
18 CASE.**

19 DATED: September 15, 2017.



20 _____
21 Jennifer A. Dorsey
22 _____
23 United States District Judge

24 local rules).

25 ⁵ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130; *Ferdik*,
26 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

27 ⁶ See *Anderson v. Air West, Inc.*, 542 F.2d 522, 524 (9th Cir. 1976).

28 ⁷ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33.

29 ⁸ ECF No. 21 at 2.